

Intellectual Property Protection for Companies Expanding into Indonesia

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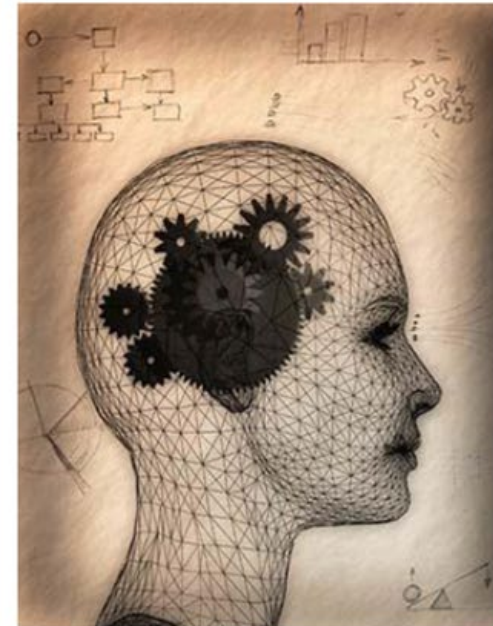


Tax



Indonesia's Intellectual Property Environment

What is Intellectual Property?



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What is Intellectual Property?

- Definition

Intellectual Property (IP) is property that results from the creation of the human mind

- 2 categories of IP:

- Industrial Property – patents, trademarks, industrial designs, geographical indications
- Copyright – literary and artistic works

Source: World Intellectual Property Organization

Why Intellectual Property Matters When Entering Indonesia



Strategic Importance of IP

IP protection is essential for long-term success in Indonesia's large and growing market, preventing costly disputes and rebranding.

Risks and Legal Framework

Indonesia's first-to-file system increases risks of third-party registration, requiring early and proactive IP filing.

Commercial and Investment Value

Strong IP supports brand trust, pricing power, and investor confidence critical during fundraising and acquisitions.

Ongoing IP Management

Effective IP protection in Indonesia requires ongoing enforcement, understanding local laws, and strategic ownership planning.

Legal Framework and Governing Authorities

IP Governance and Administration

Indonesia's IP rights are managed by the Directorate General of Intellectual Property (DGIP) under the Ministry of Law, overseeing registration and enforcement.

Key IP Legislation

Laws cover trademarks, patents, copyrights, industrial designs, and trade secrets, forming a comprehensive IP legal structure.

International Agreements

Indonesia is a signatory to major treaties like TRIPS, Paris, Berne, WIPO, and Madrid Protocol aligning with global IP standards.

Challenges and Practicalities

Effective enforcement requires agency coordination and local expertise; foreign companies benefit from local IP consultants.



Common IP Threats for Foreign and Expanding Businesses



Trademark Squatting Risks

Trademark squatting in Indonesia's first-to-file system can delay and complicate brand protection efforts.

Counterfeiting and Piracy

Counterfeiting affects industries like fashion, pharmaceuticals, and digital content, impacting brand integrity.

Contractual IP Vulnerabilities

Weak IP clauses in local contracts risk loss of control over assets and ownership disputes.

Challenges with Online Marketplaces

Online platforms facilitate rapid, anonymous sale of infringing goods, complicating enforcement.

Understanding the First-to-File System



First-to-File Principle

Indonesia grants exclusive rights to the first applicant, regardless of prior use in commerce, emphasizing filing speed.

Risks of Delayed Registration

Delaying registration can cause loss of brand ownership, trademark squatting, and costly legal disputes.

Impact on Patents

Global novelty assessment and filing dates are crucial; public disclosure before filing risks patent loss.

Strategic IP Planning

Early IP filings and clearance searches before market entry reduce legal risks and strengthen defense.

Types of Intellectual Property Recognized in Indonesia



Patent Rights

Patents protect technical inventions including products, processes, and systems that demonstrate novelty and industrial applicability.

Trademark Protection

Trademarks safeguard brand identifiers like names, logos, slogans, sounds, and unique shapes used to distinguish goods or services.

Copyright Coverage

Copyrights protect original works like software, literature, music, films, and digital content, arising automatically upon creation.

Industrial Designs & Trade Secrets

Industrial designs safeguard product aesthetics; trade secrets protect confidential business info like formulas and algorithms.



IP Registration and Enforcement in Practice

Patent Protection and Recent Legal Reforms

Patent Types & Protection Terms

Standard patents protect new, inventive inventions for 20 years; simple patents cover incremental innovations for 10 years.

Expanded Patent Scope

Recent reforms include systems, methods, and uses as patentable, benefiting technology and digital sectors.

Application & Compliance Requirements

Applications require detailed descriptions and timely Bahasa Indonesia translations; maintenance fees and usage proof are mandatory.

International Filing Strategies

Foreign companies should use international treaties like the Patent Cooperation Treaty to protect inventions globally.



License Agreement

- License agreement must be recorded and published for it to have legal effect on third parties



Trademark Protection and Registration Strategy

Scope of Trademark Protection

Indonesia's trademark law covers traditional and non-traditional marks including words, logos, sounds, and shapes.

Registration Process

The registration involves examination, publication for oppositions, and substantive review by Indonesian authorities.

Validity and Renewal

Trademarks are valid for ten years and can be renewed indefinitely, but non-use can lead to cancellation.

Strategic Filing Advice

Early filing, correct classification, and registering defensive marks help mitigate imitation risks in Indonesia.



Industrial Design

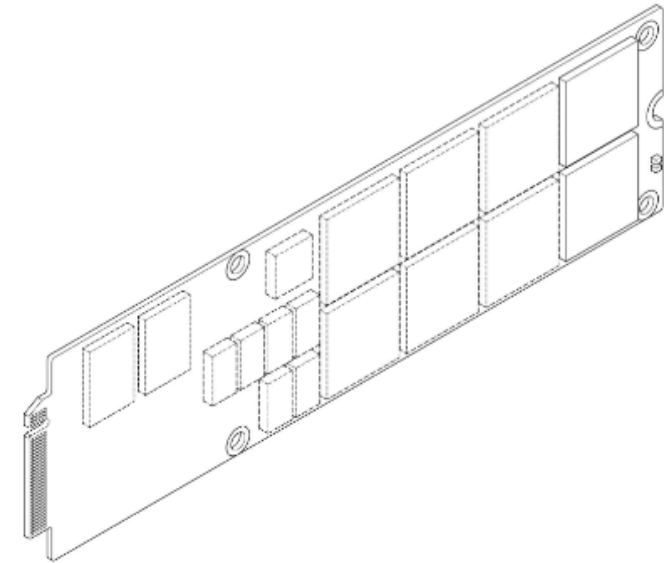
- A creation on the shape, configuration, or the composition of lines or colors, or lines and colors, or the combination thereof in a three- or two-dimensional form which gives aesthetic impression and can be realized in a three- or two-dimensional pattern and used to produce a product, goods or an industrial commodity and a handy craft.



| | |
|---------------------------|---|
| Title | PRINTER |
| Product Usability: | To receive typed text and graphic images from a computer and transfer them to paper |
| Locarno class | (18-02) Printing machines |
| Priority Data | JP 2019-011436; 2019-05-24 |

Industrial Design

- Not a member of the Hague System
- Requires novelty
- Partial design acceptable
- Multiple-design application available
 - A set of products not various embodiments
 - Example: A set of chairs and table
- No annuity fee



| | |
|---------------------------|---|
| Title | SSD Data Storage Device |
| Product Usability: | As a medium for storing data using a semiconductor. |
| Locarno class | (14-02) DATA PROCESSING EQUIPMENT AS WELL AS PERIPHERAL APPARATUS AND DEVICES |
| Priority Data | KR 30-2018-0016681; 2018-04-09 |

Copyright

- Copyright protection incurs **automatically upon creation of an original work** (declarative principle); registration is **not mandatory** for protection. However, in the event of a dispute, the Indonesian IP Office generally requires registration of the copyright.
- Protection of literary and artistic works:
 - writings, music, fine arts (paintings and sculptures), computer programs and electronic database.
- Protects the **expression** of thoughts, not ideas
- Term of protection: generally 50 years of death of the creator



Enforcement options

IP Enforcement Mechanisms in Indonesia



Civil Enforcement Actions

Civil actions in Commercial Courts can lead to injunctions, damages, or destruction of infringing goods.

Criminal Enforcement Measures

Criminal enforcement targets trademark counterfeiting and piracy through police raids and penalties.

Administrative Enforcement

Customs recordation helps suspend suspected infringing goods at borders to prevent counterfeit imports.

Challenges and Strategies

Success depends on strategic case selection, preparation, and collaboration with experienced local counsel.



Best Practices

Best Practices for Market Entry and Long-Term Protection



Early IP Audits and Filings

Conduct IP audits and clearance searches early, then file trademarks and patents promptly for market readiness.

Local Expertise and Ownership

Engage local IP consultants and ensure IP rights are registered under the correct legal entity for compliance.

Ongoing Monitoring and Enforcement

Continuously monitor the market for IP infringements and be prepared to enforce rights through legal channels.

Robust Internal Protections

Use contracts, NDAs, and employee agreements to safeguard trade secrets and innovations internally.

Protecting IP in Halal Industries

Alignment with Certification

As Halal certification is mandatory in Indonesia, consistency between IP registration and halal certification filings strengthens legal protection and market credibility.

Halal Compliance and IP Validity

Maintaining halal certification requires adherence to regulations to ensure product changes do not compromise IP rights and certification status.





Q & A

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